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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,796	10/19/1999	SCOTT KIRKPATRICK	YO999-421	3306

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8321 Old Courthouse Road
Suite 200
Vienna, VA 22182

EXAMINER

LUU, SY D

ART UNIT PAPER NUMBER

2174

DATE MAILED: 09/03/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/420,796

Applicant(s)

KIRKPATRICK ET AL.

Examiner

Sy D Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to Amendment B, filed 5/5/03. This action is Non-Final.
2. Claims 1-9, 11-14, and 16-25 are pending in this application. Claims 1, 16, 20, 23, and 24 are independent claims. In the Amendment B, claims 1-9, 11-13, and 16-25 were amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-9 and 11-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "capturing a first image of a user within a first predetermined target area in a video stream" on line 3 of the amended claim which was not described in the specification. The Examiner interprets as "capturing a first image of a user including a first predetermined target area in a video stream" to remain consistent with disclosures in the specification as well as

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other claims, such as "...captures a first image of a user within a video stream including a first predetermined target area..." as recited in claim 20.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2-5, 7, 13, 19, and 21-22 recites the following limitations in which there are insufficient antecedent basis for this limitation in the claim.

a) claims 2 and 17: "said first indication" on lines 3 and 8 of the amendments respectively;

b) claims 2 and 4: does "said associating" on line 5 of claim 2 on line 1 of claim 4 and line 8 of claim 13 refer to "associated" of line 4 in claim 2 or "associating" in line 10 of claim 1 in the amendments?

c) claim 5: "said change of state" on line 1 of claim 5;

d) claim 13: does "said associating" on line 8 refer to "associating" of line 6 in claim 13 or "associating" in line 10 of claim 1 in the amendments?

e) claim 7: does "said associating" on line 9 refer to "associating" of line 7 in claim 17 or "associate" in line 3 of claim 16 in the amendments?

f) claim 19: "said second indication" on line 9 of the amendments;

g) claim 21: does "said association" on line 8 refer to "associating" of line 6 in claim 21 or "associates" in line 10 of claim 20 in the amendments?

h) claim 22: does "said association" on line 6 refer to "associating" of line 4 in claim 22, "associating" of line 6 in claim 21 or "associates" in line 10 of claim 20 in the amendments?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-16 and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Kazama et al ("Kazama", U.S. 6,111,580).

As per claim 1, Kazama teaches a method of enabling a computer system to recognize specific actions of a user, said method comprising:

capturing and displaying a first image of a user including a first predetermined target area in a video stream (fig. 13; col. 9, lines 21-41; *hand area 81 being a predetermined target area*);

determining that a state of said first predetermined target area from the user that a state of said first predetermined target area is to be associated with a first computer event, and associating said first computer event with said state of said first predetermined target area in

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response to said determination (col. 5, lines 31-62; *particularly lines 56-58 where gestures are determined/detected at the initial state/position of the hand for the act of a toss or a sweep for controlling operations/events*; col. 8, lines 51-62; col. 9, lines 21-41); and

storing information in a memory device regarding the association (col. 13, lines 40-45).

As per claim 2, Kazama teaches: capturing and displaying a second image with the first target area, wherein an indication indicates that a change of state between said first and second images in said first predetermined target area is to be associated with said computer event, and wherein said associating comprises associating said change of state with said first computer event (col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41; *gestures are determined/detected at the final state/position of the hand for the act of a toss or a sweep for controlling operations/events*).

As per claims 3-4, Kazama teaches detecting a change of a pattern of color [claim 3] at figure 313, and column 5, lines 31-38; and storing a summary of colors [claim 4] at column 5, lines 39-65.

As per claims 5-6, Kazama teaches that a change of state is pattern of activity within said video stream which indicates a change of position of the user image within the first target area (fig. 13; col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41; *e.g. a change of state of the hand from the initial position to the last position for the act of a toss or a sweep for controlling operations/events*); and that the first image includes an object in said first predetermined target area (fig. 13; *hand object 81*).

As per claim 7, Kazama teaches a specific computer function to execute (col. 8, lines 51-62, column 9, lines 21-41, and column 13, lines 43-45).

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As to claims 8-9, Kazama shows a square predetermined target area (fig. 13, area 81), and the first computer event comprises plural computer events [claim 9] at column 5, lines 46-59.

Kazama teaches positioning [claim 11] and locating [claim 12] the predetermined target area using one of a user input command and a program command (fig. 13; col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41).

As per claim 13, Kamaza teaches: receiving a second indication that a state of the second target area including a user image is to be associated with a second computer event, and associating the second computer event with a state of the second user action (col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41); and storing information regarding the association (col. 13, lines 40-45).

As per claim 14, Kazama describes a mouse click action at figure 7, and column 7, line 2.

Claims 16-17 are similar in scope to claim 1, and are therefore rejected under similar rationale.

Claims 18-23 are similar in scope to claims 11, 13, 1, 1, 13, and 1 respectively, and are therefore rejected under similar rationale.

Claims 24-25 are similar in scope to claim 1, and are therefore rejected under similar rationale.

Response to Arguments

10. Applicant's arguments with respect to claims 1-9, 11-14 and 16-25 have been fully considered but they are not persuasive. While the Examiner agrees with Applicant's arguments

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that the combination of Iwamura and Kazama could be unreasonable, the Examiner disagrees that the Kazama reference does not teach/suggest a predetermined target area as recited in the amended claims. For this reason, the amended claims are being considered in light of different interpretations and citations from Kazama as detailed in the rejection above.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

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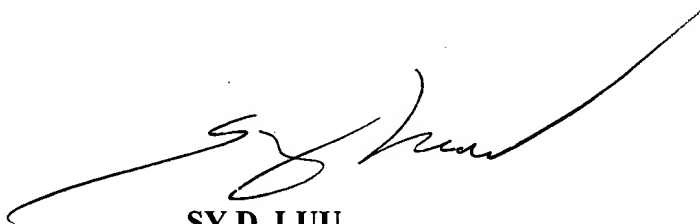
The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'Sy D. Luu', with a long, sweeping horizontal line extending to the left.

SY D. LUU
PRIMARY EXAMINER